

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT WINBURN,

Plaintiff,

v.

Case No. 1:04-cv-562
HON. JANET T. NEFF

KATHLEEN HALLOWELL,

Defendant.

REPORT AND RECOMMENDATION

On May 21, 2009, the Honorable Janet T. Neff entered an order of dismissal in this case, a copy of which is attached. Presently before the Court is Plaintiff's Motion For a Hearing For Contempt Proceedings and Further Relief Including Modification of Settlement Agreement. This Court did not retain jurisdiction in this matter during the record made of the parties' settlement agreement on May 21, 2009, nor did the Court state that it would retain jurisdiction in its order dismissing this case. Accordingly, plaintiff's motion should be denied pursuant to *Kokkonen v. Guardian Life Insurance Company of America*, 511 U.S. 375 (1994), a copy of which is attached.¹

Accordingly, it is recommended that Plaintiff's Motion For a Hearing For Contempt Proceedings and Further Relief Including Modification of Settlement Agreement (Docket #244) be denied.

¹Plaintiff may file a contract action to enforce the settlement agreement. This Court would likely not have jurisdiction over such a claim, which lies in state court.

NOTICE TO PARTIES: Objections to this Report and Recommendation must be served on opposing parties and filed with the Clerk of the Court within fourteen (14) days of receipt of this Report and Recommendation. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b); W.D. Mich. LCivR 72.3(b). Failure to file timely objections constitutes a waiver of any further right to appeal. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). *See also Thomas v. Arn*, 474 U.S. 140 (1985).

/s/ Timothy P. Greeley
TIMOTHY P. GREELEY
UNITED STATES MAGISTRATE JUDGE

Dated: February 12, 2013